

REMARKS

Applicants, through their Attorney, respectfully request the Examiner to reconsider and withdraw the objections and rejections to the claims for the following reasons:

Applicants, have amended, Figure 1 through 3 to designate that such figures are prior art. Applicants have submitted herewith a corrected set of drawings in compliance with 37 CFO 1.121(d). The replacements sheets are labeled replacement sheets. Accordingly, the replacement sheets should be acceptable and the objection to the drawings withdrawn.

Claims 1 and 3 to 25 are rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regarded an invention. Applicants have amended Claim 1 so that the particles are selected from the group consisting of at least light absorbing particles and optionally non light absorbing particles. Support for this Amendment is found on the specification pages 9 and 10. Accordingly, this Amendment to Claim 1 obviates the 35 USC 112, second paragraph, rejection.

Claims 1 and 33 of 25 are further rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regarded an invention. The Applicant has amended Claim 1 by changing the recitation of ink to fluid. Therefore, there is antecedent basis for fluid and this rejection is obviated.

Claim 25 is rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regarding an invention. Applicants have amended the Claim to depend on Claim 1 and accordingly, this rejection is obviated and should be withdrawn.

Claims 1 and 3 are rejected under 35 USC 102(e) as being anticipated by Whitehead et al (USPN 6,865,011). The Examiner stated that Whitehead discloses a structured fluid composition comprising a low refractive index liquid, more than one light absorbing particle and a dispersant resulting in a stable suspension that is not agglomerated. Applicants respectfully traverse.

Applicants have currently amended Claim 1 to claim a structured food composition comprising a low refractive index, particles that have to be at least light absorbing and optionally non light absorbing, optimally an additive, that can be a dispersant, charging agent,

surfactant, flocculating agent, polymer or combinations thereof and have added the further limitation of Claim 14 wherein the particles have a sufficient number of functional groups of an either acid or base to allow the dispersant to form a tightly packed mono-layer wherein the dispersant has the complementary acid or base functional group to interact with the particles surface and molecular structure resulting in a strong interaction between the particles surface and dispersant to inhibit agglomeration. Applicant's invention as claimed is not suggested, nor taught, nor obvious from the Whitehead reference.

In regard to Claim 3, the 35 USC 102(e) rejection should be withdrawn because Claim 3 depends on Claim 1 that is not taught by, nor suggested, nor obvious from the Whitehead reference. Accordingly, the rejection of Claim 1 and 3 under 35 USC 102(e) in view of Whitehead should be withdrawn.


In summary, Applicants have corrected all the indefiniteness in the Claims and have shown their invention be not only full compliance with the requirements of 35 USC 112, but have also shown that it is both novel as well as unobvious over the cited prior art. Accordingly, Applicants request the Examiner reconsider his position in view of this response and to withdraw the rejections.

The Commissioner is authorized to charge any fees in connection with the filing of this Amendment to our Deposit Account No. 12-2275. A duplicate copy of this Amendment is submitted for such purpose.

If the Examiner feels a telephone conversation would facilitate the prosecution of this application, please do not hesitate to call the Attorney record as (440) 347-5072.

Respectfully submitted,

THE LUBRIZOL CORPORATION

A handwritten signature in dark ink, appearing to read 'Teresan W. Gilbert', is written over the printed name.

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